

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

MARYANN ROSE BROYLES,	)	CIVIL NO. 12-00426 SOM-KSC
individually and as co-	)	
trustee of the Maryann Rose	)	FINDINGS AND
Broyles Revocable Trust,	)	RECOMMENDATION TO DENY
	)	PLAINTIFF'S MOTION FOR
Plaintiff,	)	DEFAULT JUDGMENT
	)	
vs.	)	
	)	
BANK OF AMERICA, N.A.;	)	
WELLS FARGO BANK, N.A.,	)	
	)	
Defendants.	)	
_____	)	

FINDINGS AND RECOMMENDATION TO DENY  
PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT

Before the Court is Plaintiff Maryann Rose Broyles' ("Plaintiff") Motion for Default Judgment ("Motion"), filed October 24, 2012. The Court finds this matter suitable for disposition without a hearing pursuant to Rule 7.2(d) of the Local Rules of Practice of the U.S. District Court for the District of Hawaii ("Local Rules"). After carefully considering the Motion and the applicable law, the Court hereby FINDS AND RECOMMENDS that the district court DENY Plaintiff's Motion.

Plaintiff seeks default judgment against Defendants Bank of America and Wells Fargo Bank because they have failed to respond to the Complaint.


Plaintiff's request for default judgment is premature, insofar as an entry of default must precede a motion for default judgment. See Fed. R. Civ. P. 55(a) ("When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default."). Default has not entered against Defendants. Accordingly, the Court recommends that the district court DENY this Motion.

If Plaintiff wishes to file a motion for default judgment, she must first request and obtain an entry of default from the Clerk of court.

IT IS SO FOUND AND RECOMMENDED.

DATED: Honolulu, Hawaii, October 25, 2012.



  
Kevin S.C. Chang  
United States Magistrate Judge

CV 12-00426 SOM-KSC; BROYLES V. BANK OF AMERICA, N.A., ET AL;  
FINDINGS AND RECOMMENDATION TO DENY PLAINTIFF'S MOTION FOR  
DEFAULT JUDGMENT